



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Announcement of the Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Portal Accounts to Establish the Vessel Agency Portal Account and to Decommission the Cartman and Lighterman Portal Accounts

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection's (CBP) modification of the National Customs Automation Program (NCAP) test concerning Automated Commercial Environment (ACE) Portal Accounts to establish the ACE Vessel Agency Portal Account, and to decommission the Cartman and Lighterman Portal Accounts due to a lack of usage by the public. The ACE Vessel Agency Portal Account will include access to Vessel Entrance and Clearance Reports. Account ownership will be a prerequisite for eligibility in the forthcoming Maritime Forms Automation Test pilot, which will allow Vessel Agency Account users to file electronic Vessel Entrance and Clearance Statements through the Vessel Entrance and Clearance System (VECS). This notice describes the eligibility and documentation requirements to apply for a Vessel Agency Portal Account and invites public comment concerning any aspect of these modifications to the ACE Portal Account Test.

DATES: The modifications of the ACE Portal Account Test announced in this notice regarding the creation of the Vessel Agency Portal Account will be implemented on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The decommissioning of the Cartman and Lighterman Portal Accounts will be implemented on [INSERT **30 DAYS** AFTER DATE OF PUBLICATION IN THE *FEDERAL*

REGISTER]. This test will continue until concluded by way of announcement in the *Federal Register*.

ADDRESSES: Comments concerning this notice and any aspect of the modified ACE Portal Account Test may be submitted at any time during the testing period via email to Brian Sale, Cargo and Conveyance Security, Office of Field Operations, at OFO-MANIFESTBRANCH@cbp.dhs.gov. The email subject line should be as follows, “Comment on ACE Vessel Agency Portal Account FRN”. For technical questions related to the application or requests for an ACE Portal Account, including ACE Vessel Agency Account, contact the ACE Account Service Desk by calling 1-866-530-4172, selecting option 1, then option 2, or by emailing ACE.Support@cbp.dhs.gov for assistance.

SUPPLEMENTARY INFORMATION:

I. Automated Commercial Environment (ACE)

A. The National Customs Automation Program

The National Customs Automation Program (NCAP) was established by Subtitle B of Title VI—Customs Modernization in the North American Free Trade Agreement (NAFTA) Implementation Act (Customs Modernization Act) (Pub. L. 103-182, 107 Stat. 2057, 2170, December 8, 1993) (19 U.S.C. 1411). With the establishment of the NCAP, customs modernization has focused on addressing trade compliance and the development of ACE, which is the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing that is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP’s business functions and the information technology

that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionalities designed to replace specific legacy ACS functions and add new capabilities.

The procedures and criteria applicable to participation in the ACE Portal Account Test remain in effect unless otherwise explicitly changed by this notice.

B. ACE Portal Accounts

On May 1, 2002, the former U.S. Customs Service, now CBP, published a general notice in the *Federal Register* (67 FR 21800) announcing a plan to conduct an NCAP test of the first phase of ACE. The test was described as the first step toward the full electronic processing of commercial importations with a focus on defining and establishing an importer's account structure. That general notice announced that importers and authorized parties could access their customs data via an internet-based Portal Account. The notice also set forth eligibility criteria for companies interested in establishing ACE Portal Accounts.

Subsequent general notices expanded the types of ACE Portal Accounts. On February 4, 2004, CBP published a general notice in the *Federal Register* (69 FR 5360) that established ACE Truck Carrier Accounts. On September 8, 2004, CBP published a general notice in the *Federal Register* (69 FR 54302) inviting customs brokers to participate in the ACE Portal Account Test and informing interested parties that once they had been notified by CBP that their request to participate in the ACE Portal Account Test had been accepted, they would be asked to sign and submit a "Terms and Conditions" document. CBP subsequently contacted those participants and asked them to sign and submit an ACE Power of Attorney form and an Additional Account/Account Owner Information form.

On October 18, 2007, CBP published a general notice in the *Federal Register* (72 FR 59105) announcing the expansion of the ACE Portal Account Test to include the

additional following ACE account types: Carriers (all modes: air, rail, sea); Cartman; Lighterman; Driver/Crew; Facility Operator; Filer; Foreign Trade Zone (FTZ) Operator; Service Provider; and Surety. On October 21, 2015, CBP published a general notice in the *Federal Register* (80 FR 63817) announcing the creation of the Exporter Portal Account. On August 8, 2016, CBP published a general notice in the *Federal Register* (81 FR 52453) announcing the creation of the Protest Filer Account. Since then, CBP has not announced the creation of any new types of ACE accounts.

II. Authorization for the ACE Portal Account Test

The Customs Modernization Act authorizes the Commissioner of CBP to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The ACE Portal Account Test, as modified in this notice, is authorized pursuant to section 101.9 of title 19 of the Code of Federal Regulation (19 CFR 101.9(b)), which provides for the testing of NCAP programs or procedures. *See* Treasury Decision (T.D.) 95-21.

III. Modification of the ACE Portal Account Test

This document announces the modification of the ACE Portal Account Test to establish the Vessel Agency Portal Account type. This new ACE account will provide vessel agents and vessel operators with the ability to submit consolidated, electronic vessel arrival, entrance, and clearance applications via ACE during the future Maritime Forms Automation Test (MFA) pilot,¹ and any future electronic submissions following regulatory amendments. Features of this new portal account type, as well as the eligibility and documentation requirements for applying for an ACE Vessel Agency

¹ CBP will automate its paper-based commercial vessel arrival, entrance, and clearance forms and related processing. CBP plans to issue a *Federal Register* notice to announce the creation of the MFA pilot that will allow participants to submit consolidated, electronic vessel arrival, entrance, and clearance applications via ACE to the Vessel Entrance and Clearance System (VECS). The MFA pilot will be open only to those who have requested and established a Vessel Agency Account type within ACE, as described in this notice. More information about the MFA pilot will be made publicly available in a subsequent *Federal Register* notice and on CBP's website.

Portal Account, are described below.

A. Vessel Agency Portal Account

The ACE Vessel Agency Portal Account will provide vessel owners or operators, or their authorized agents, with access to ACE and the ability to submit electronically vessel entrance and clearance information through the Vessel Entrance and Clearance System (VECS) as part of the MFA pilot, as well as special permit data associated with a carrier's International Maritime Organization (IMO) number (or other unique vessel ID number), *i.e.*, Entrance and Clearance Reports.² The ACE Vessel Agency Portal Account will only be available to vessel owners or operators, or authorized agents, which are either a U.S.-based entity or have a U.S.-based address (P.O. boxes not allowed) for enforcement purposes.

Vessel owners or operators, or authorized agents, who do not have existing ACE portal accounts will be required to submit an ACE application form and apply for an ACE Vessel Agency Portal Account, as explained in Section B.1 below. Existing ACE Portal Account owners wishing to request an ACE Vessel Agency Portal Account should follow instructions in Section B.2 below. Both new and existing ACE account holders must agree to the "Terms and Conditions for Account Access of the Automated Commercial Environment (ACE) Portal." *See* 72 FR 27632 (May 16, 2007) and 73 FR 38464 (July 7, 2008). New ACE users will be prompted to accept these Terms and Conditions during the application process.

B. Establishing a Vessel Agency Account

1. New ACE Portal Account Owner

Vessel owners or operators, or authorized agents who do not have an existing ACE Portal Account may apply for a Vessel Agency Account according to the instructions online at: <https://www.cbp.gov/trade/automated/getting-started/using-ace->

² *See, e.g.*, 19 CFR 4.7(b)(4)(ii)(A) and 4.7a(c)(4)(x).

secure-data-portal. Applicants will be required to complete an application at <https://www.cbp.gov/document/guidance/ace-secure-data-portal-account-application>; provide the “Corporate Information” and “ACE Account Owner” information listed below; certify that the applicant has read and agrees to the Terms and Conditions; and, submit the application to ACE.Applications@cbp.dhs.gov by clicking the Submit By Email button at the bottom of the form. The account validation process will begin once all steps have been completed.

Corporate Information:

- (1) Company Name
- (2) Company Officer Name
- (3) Company Officer Title
- (4) DUNS Number (optional)
- (5) Company Organizational Structure
- (6) End of Fiscal Year (month and day)
- (7) U.S. Mailing Address (P.O. box not allowed)
- (8) Vessel Agency Company Name
- (9) Vessel Agency Identifier (EIN, IR, CBP Assigned Number)

ACE Account Owner:

- (1) Name
- (2) Date of Birth
- (3) Email Address
- (4) Telephone Number
- (5) Fax Number (optional)
- (6) Address (if the Account Owner’s Address differs from the Corporate Address provided above)

Once the applicant completes and submits the Vessel Agency Portal Account application, the applicant will receive an email message confirming the submission of the application. This email will also direct the applicant to log on to ACE to complete the account set up process and access the ACE Vessel Agency Portal Account.³ Applicants who do not receive an email message within 24 hours should contact the ACE Account Service Desk by calling 1-866-530-4172, selecting option 1, then option 2, or by emailing ACE.Support@cbp.dhs.gov for assistance.

2. Existing ACE Portal Account Owners

Parties with existing ACE Portal Accounts may request a Vessel Agency Portal Account through their established ACE Portal Accounts. For these accounts, an account owner may establish access to the Vessel Agency Portal Account functionality according to the instructions on the following website:

<https://www.cbp.gov/trade/automated/getting-started/portal-managing>.

In order to request Vessel Agency Portal Account access, the account owner will be asked to provide the following information:

Corporate Information

- (1) Vessel Agency Company Name
- (2) Vessel Agency Identifier (EIN, IR, CBP Assigned Number)
- (3) Other Company Names (optional)
- (4) U.S. Mailing Address (P.O. box not allowed)
- (5) Company Telephone (optional)
- (6) Website Address (optional)

Contact Information

³ Establishing an ACE Vessel Agency Portal Account does not automatically provide access to the ACE Portal Account features for importers. Applicants wishing to establish an ACE Portal Account should submit an application by clicking on the “Apply for an Account” link located under the ACE Secure Data Portal sidebar on the following website:
<http://www.cbp.gov/trade/automated>.

- (1) Name
- (2) Date of Birth (optional)
- (3) Address (optional)
- (4) Email Address (optional)
- (5) Telephone Number (optional)
- (6) Fax Number (optional)

Once the existing ACE Account Owner completes the process, the Vessel Agency Portal Account will be created and the account owner will be able to access the Vessel Agency Portal Account functionality.

IV. Decommissioning the ACE Cartman and Lighterman Account Types

As noted above, the Cartman and Lighterman ACE Portal Accounts were announced in a *Federal Register* notice published on October 18, 2007. *See* 72 FR 59105 (Oct. 18, 2007). However, these two accounts were not used by the public. Accordingly, these two accounts will not be included in the migration to the modernized ACE system and will be decommissioned as of [INSERT **30 DAYS AFTER DATE OF PUBLICATION IN *FEDERAL REGISTER***]. Beginning on that day, these accounts will no longer be accessible. For further information, please contact OFO-MANIFESTBRANCH@cbp.dhs.gov.

V. Test Duration

Except as stated below, the modification of the ACE Portal Account Test announced in this notice regarding the creation of the Vessel Agency Portal Account is effective on [INSERT DATE OF PUBLICATION IN *FEDERAL REGISTER*]; the decommissioning of the Cartman and Lighterman Portal Accounts is effective on [INSERT **30 DAYS AFTER DATE OF PUBLICATION IN *FEDERAL REGISTER***]. This modified test will continue until it concludes by way of announcement published in the *Federal Register*. After the testing of the modified test concludes, an evaluation will

be conducted and the results of that evaluation will be published in the *Federal Register* and the *Customs Bulletin*, as required by section 101.9(b)(2) of the CBP regulations (19 CFR 101.9(b)(2)).

VI. Comments

All interested parties are invited to comment on any aspect of this modification of the ACE Portal Account Test for the duration of the test. CBP requests comments and feedback on all aspects of this modification, including the design, conduct, and implementation of the modification, in order to determine whether to modify, alter, expand, limit, continue, end, or fully implement this modification.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget (OMB). The ACE Vessel Agency Portal Account application has been approved by OMB in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) and assigned OMB control number 1651-0105. The information collection conducted under 19 CFR part 4, including VECS under OMB control number 1651-0019, has been submitted to OMB for review and approval in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507).

VIII. Confidentiality

All data submitted and entered into ACE is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except as otherwise provided by law. Electronic Export Information (EEI) is also subject to the confidentiality provisions of 15 CFR 30.60. As stated in previous notices, participation in the ACE Portal Account Test

or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act (FOIA) request, a name(s) of an approved participant(s) will be disclosed by CBP in accordance with 5 U.S.C. 552.

IX. Misconduct Under the Test

A test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, or discontinuance from participation in the ACE Portal Account Test, as modified by this notice, for any of the following:

- (1) Failure to follow the terms and conditions of this test;
- (2) Failure to exercise reasonable care in the execution of a participant's obligations;
- (3) Failure to abide by applicable laws and regulations that have not been waived;
or
- (4) Failure to deposit duties, taxes or fees in a timely manner.

If the Director of the Entry Summary, Accounts, and Revenue Division (ESAR) finds that there is a basis for discontinuing test participation privileges, the Director of ESAR will send a written notice to the test participant, which proposes the discontinuance with a description of the facts or conduct warranting the action. The test participant can appeal the Director's decision in writing within 10 calendar days of receipt of the written notice. The appeal must be submitted to the Executive Director, Trade Transformation Office (TTO), Office of Trade, by emailing ESAR@cbp.dhs.gov.

The Executive Director will issue a decision in writing on the proposed action within 30 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the proposed notice becomes the final decision of CBP as of the date that the appeal period expires. A proposed discontinuance of a test participant's privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the test participant.

In the case of willful misconduct or when public health, interest, or safety so requires, the Director of ESAR may immediately discontinue the test participant's privileges upon written notice to the test participant. The notice will contain a description of the facts or conduct warranting the immediate action. The test participant will be offered the opportunity to appeal the Executive Director's decision within ten calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to the Executive Director, TTO, Office of Trade, by emailing ESAR@cbp.dhs.gov. The immediate discontinuance will remain in effect during the appeal period. The Executive Director will issue a decision in writing on the discontinuance within fifteen working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of CBP on the date that the appeal period expires.

Dated: July 14, 2022.

AnnMarie R. Highsmith,
Executive Assistant Commissioner,
Office of Trade.

[FR Doc. 2022-15441 Filed: 7/19/2022 8:45 am; Publication Date: 7/20/2022]